

PART 1252—PORTFOLIO HOLDINGS

Sec.

1252.1 Enterprise portfolio holdings criteria.

1252.2 Effective duration.

AUTHORITY: 12 U.S.C. 4624.

SOURCE: 74 FR 5618, Jan. 30, 2009, unless otherwise noted.

§ 1252.1 Enterprise portfolio holding criteria.

The Enterprises are required to comply with the portfolio holdings criteria set forth in their respective Senior Preferred Stock Purchase Agreements with the Department of the Treasury, as they may be amended from time to time.

§ 1252.2 Effective duration.

This part shall be in effect for each Enterprise so long as—

(a) This part has not been superseded through amendment, and

(b) The Enterprise remains subject to the terms and obligations of the respective Senior Preferred Stock Purchase Agreement.

PART 1253—PRIOR APPROVAL FOR ENTERPRISE PRODUCTS

Sec.

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APPENDIX TO PART 1253—PRIOR APPROVAL FOR ENTERPRISE PRODUCTS: INSTRUCTIONS AND NOTICE OF NEW ACTIVITY FORM

AUTHORITY: 12 U.S.C. 4526; 12 U.S.C. 4541.

SOURCE: 74 FR 31604, July 2, 2009, unless otherwise noted.

§ 1253.1 Purpose and authority.

The purpose of this part is to establish policies and procedures implementing the prior approval authority for enterprise products, in accordance with section 1321 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and

Soundness Act) (12 U.S.C. 4541), as amended.

§ 1253.2 Definitions.

For purposes of this part:

Authorizing statute means, in the case of Fannie Mae, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 *et seq.*) and, in the case of Freddie Mac, the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 *et seq.*).

Director means the Director of the Federal Housing Finance Agency or his or her designee.

Enterprise means the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac).

FHFA means the Federal Housing Finance Agency.

New activity means with respect to an Enterprise, any business line, business practice, or service, including guarantee, financial instrument, consulting, or marketing, that is proposed to be undertaken by the Enterprise either on a standalone basis or as an incident to providing one or more Enterprise products to the market, and which was—

(a) Not initially engaged in prior to July 30, 2008;

(b) Commenced by the Enterprise prior to July 30, 2008, but which, after July 30, 2008, the Enterprise ceased to engage in, and presently intends to resume; or

(c) Offered or engaged in by the Enterprise after July 30, 2008, at a significantly different level, or in a significantly different manner, in terms of the activity's effect on public interest or risk to the Enterprise or the mortgage finance or financial system.

The term “new activity” does not include—

(1) Any Enterprise business practice, transactions, or conduct performed solely as an incident to the administration of the Enterprise's internal affairs to conduct its business; or

(2) Any business practice or service undertaken by an Enterprise that is *de minimis* in scope, volume, risk, or duration.

New product means any activity that the Director determines merits public notice and comment on matters of

Federal Housing Finance Agency.

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compliance with the applicable authorizing statute, safety and soundness, or public interest. “New product” does not include—

(a) The automated loan underwriting system of an Enterprise in existence as of July 30, 2008, including any upgrade to the technology, operating system, or software to operate the underwriting system;

(b) Any modification to the mortgage terms and conditions or mortgage underwriting criteria relating to the mortgages that are purchased or guaranteed by the Enterprise, provided that such modifications do not alter the underlying transaction so as to include services or financing, other than residential mortgage financing;

(c) Any activity that is substantially similar to the activities described in paragraphs (a) or (b) of this section;

(d) Any activity that is substantially similar to an activity or product that has been approved in accordance with this part for either Enterprise; or

(e) Any activity that is substantially similar to an activity or product continuously undertaken by the other Enterprise since prior to July 30, 2008.

Substantially similar. In considering whether an activity is “substantially similar” to any activity described in section 1321(e)(1)(A) and (B) of the Safety and Soundness Act, 12 U.S.C. 4541(e)(1)(A) and in paragraphs (a) or (b) of this section under the definition of new product, or to any activity approved in accordance with this part, or continuously engaged in by the other Enterprise as referenced in paragraphs (d) and (e) of this section under the definition of new product, the Director may consider if the activity in question—

(1) Is a product;

(2) Is authorized under the applicable authorizing statute;

(3) Represents an upgrade to the way an approved product is delivered;

(4) Poses a significant change in risk to the Enterprise or the mortgage finance system from a previously approved product or activity;

(5) Involves a significant change in terms, conditions, or limitations expressly contained in any prior approval granted under this part;

(6) Poses a significant change in its effect on the public interest compared to a previously approved product or activity;

(7) Poses a significant change from a previously approved product or activity and if so, does a tradeoff exist in the composite of risk, public interest, and safety and soundness elements in the proposed new activity;

(8) Is likely to have significantly more enterprise resources dedicated to it;

(9) Requires approval by regulators other than FHFA, including Federal, State, or local regulators;

(10) Involves new classes or types of borrowers, investors, or counterparties;

(11) Involves new classes or types of collateral; or

(12) Such other factor as the Director determines to be appropriate.

§ 1253.3 Notice of new activity.

(a) Before commencing a new activity, an Enterprise must submit a Notice of New Activity (Notice) to the FHFA, and either receive a determination that the new activity is not a new product, await passage of the 15 business-day period as described in paragraph (d) of this section, or, where FHFA determines the new activity to be a new product, await approval of the new product under § 1253.4. In addition, for any new activity that an Enterprise seeks to engage in which FHFA had previously approved in accordance with this part for the other Enterprise, or in which the other Enterprise had engaged continuously since prior to July 30, 2008, the Enterprise must submit a Notice to FHFA. In support of its Notice, the Enterprise shall submit information sufficient to allow the Director to make a determination on the Notice pursuant to section 1321 of the Safety and Soundness Act (12 U.S.C. 4541), as amended, including any information required by FHFA by regulation or otherwise. The Enterprise shall provide a thorough, meaningful, complete and specific description of the new activity such that the public will be able to provide fully informed comment on the new activity if FHFA determines the new activity to be a new product. Such information shall include that contained in the FHFA Notice Form and